

385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5275-3]

### California State Motor Vehicles Pollution Control Standards; Opportunity for Public Hearing

**AGENCY:** Environmental Protection Agency (EPA)

**ACTION:** Notice of opportunity for public hearing and public comment period.

**SUMMARY:** The California Air Resources Board (CARB) has notified EPA that it has adopted regulations regarding on-board diagnostic system requirements for 1994 and later model year passenger cars, light-duty trucks, and medium-duty vehicles (OBD II). On-board diagnostics consist of a computer-based system incorporated into the vehicle electronics for the purpose of detecting operational malfunctions within the emission control system. When malfunctions are detected, a malfunction light is illuminated on the instrument panel and a trouble code is stored in the computer memory identifying the system in which the fault has occurred. CARB initially requested that EPA find its OBD II regulations within the scope of existing waivers of Federal preemption pursuant to section 209 of the Clean Air Act (Act), 42 U.S.C. 7543(b), as amended.

Subsequently, CARB twice amended the subject regulations. On June 14, 1995, California requested that, pursuant to section 209(b) of the Clean Air Act, EPA waive Federal preemption for its onboard diagnostics amendments including the December 1994 revisions. This notice announces that EPA has tentatively scheduled a public hearing for October 17, 1995, to hear comments

from the general public concerning CARB's request.

**DATES:** EPA has tentatively scheduled a public hearing for October 17, 1995, beginning at 9:30 a.m. Any person who wishes to testify on the record at the hearing must notify EPA by September 29, 1995, that it wishes to present oral testimony regarding CARB's request. Any party may submit written comments regarding CARB's request by November 17, 1995. If EPA receives one or more requests to testify on the pending request, a hearing will be held. Please note that if no one notifies EPA that they wish to testify, no hearing will be held. Therefore, any person who plans to attend the hearing should call Leila Holmes Cook of EPA's Manufacturers Operation Division at (202) 233-9252, on or after October 2, 1995, to determine if a request for a hearing has been received by the Agency and thus whether a hearing will be held. Regardless of whether or not a hearing is held, written comments regarding CARB's request will be accepted through November 17, 1995.

**ADDRESSES:** If a request is received, a public hearing will be held at: Sheraton Inn, 3200 Boardwalk, Ann Arbor, Michigan 48108. Parties wishing to testify at the hearing should provide written notice to: Charles N. Freed, Director, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. In addition, written comments, in duplicate, should be sent to Mr. Freed at the same address. Copies of material relevant to the waiver request (Docket No. A-90-28) will be available for public inspection during the working hours of 8:30 AM to 12:00 PM and 1:30 PM to 3:30 PM, Monday through Friday, at: U.S. Environmental Protection Agency, Air Docket (LE-131), Room M1500, First Floor Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 [Telephone (202) 260-7548].

**FOR FURTHER INFORMATION CONTACT:** Leila Holmes Cook, Attorney/Advisor, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, Washington, DC. 20460, Telephone: (202) 233-9252.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Discussion

Section 209(a) of the Act as amended, 42 U.S.C. 7543(a), provides in part: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part \* \* \* [or] require certification, inspection, or any other approval

relating to the control of emissions \* \* \* as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of the Act requires the Administrator, after notice and an opportunity for public hearing, to waive application of the prohibitions of section 209(a) for California " \* \* \* if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—(A) the determination of the State is arbitrary and capricious, (B) [California] does not need such \* \* \* standards to meet compelling and extraordinary conditions, or (C) [its] standards and accompanying enforcement procedures are not consistent with section 202(a) of [the Act]."

As previous decisions granting waivers of federal preemption have explained, State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology given the cost of compliance within that time period or if the Federal and state test procedures impose inconsistent certification requirements.

With regard to enforcement procedures accompanying standards, I must grant the requested waiver unless I find that these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 202(a), or unless the California and Federal certification test procedures are inconsistent.

Once California has been granted waiver for a set of standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without having to receive a further waiver of Federal preemption.

CARB initially requested that EPA find its OBD II regulations within the scope of existing waivers of federal preemption pursuant to section 209 of the Clean Air Act (Act), 42 U.S.C. 7543(b), as amended. Subsequently, CARB twice amended the subject regulations. EPA finalized its On-Board Diagnostics Rule on January 29, 1993 [58 FR 9468 (February 19, 1993)]. By letter dated June 14, 1995, California requested that, pursuant to section 209(b) of the Clean Air Act, EPA waive Federal preemption for its onboard diagnostics amendments including the December 1994 revisions. These